

CHAPTER NO. 1108

HOUSE BILL NO. 3190

By Representatives McMillan, Hargrove

Substituted for: Senate Bill No. 3308

By Senator Rochelle

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 29 and Title 7, Chapter 86, relative to emergency communications districts.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. The General Assembly finds that the "Emergency Communications District Law" has been successfully embraced by the vast majority of Tennessee counties, most of which have already initiated basic or enhanced 911 service and are developing or maintaining this lifesaving service in furtherance of the purposes stated in the law. The General Assembly also finds that the establishment of emergency communications services for all citizens of the State will promote the public interest. The General Assembly further finds that statewide wireless enhanced 911 service is in the public interest.

SECTION 2. Tennessee Code Annotated, Section 7-86-102, is amended by inserting the following language, to be designated as subsection "(b)", and by re-designating the existing subsections accordingly:

(b)(1) The General Assembly finds that the establishment of a uniform emergency number to shorten the time required for a citizen to request and receive emergency aid is a matter of public interest and concern. The General Assembly finds also that the continued viability of the lifesaving 911 emergency communications service is of the highest priority for the health and safety of the citizens of Tennessee.

(2) The General Assembly further finds that the effectiveness of 911 service depends on the ability of emergency service providers to timely respond to persons requiring emergency assistance; further, that the response by such providers is directly affected by the nature and coverage of the telephone and radio communications network available within a community, the quality of which is often limited by the availability of financial resources in the community.

(3) The General Assembly further finds that the rapid technological advancement in the area of telecommunications has provided the public with wireless and other mobile telecommunications services. The General Assembly also finds that in recent rules and orders, the federal communications commission has mandated wireless enhanced 911 service for all commercial mobile radio service users and subscribers, contingent upon the authorization and establishment of a mandated cost recovery mechanism for both commercial mobile radio service providers and emergency communications districts by the General Assembly. The General Assembly recognizes that all subscribers and users of commercial mobile radio service should share equally in the benefit of 911 service and should participate in the funding thereof.

SECTION 3.

(a) Tennessee Code Annotated, Section 7-86-103, is amended by inserting the following as new, appropriately numbered subdivisions:

() "Public safety emergency services provider" means any municipality or county government that provides emergency services to the public. Such providers and/or services include, but are not limited to, emergency fire protection, law enforcement, police protection, emergency medical services, poison control, animal control, suicide prevention, and emergency rescue management.

() "Commercial mobile radio service provider" means any person, corporation, or entity licensed by the federal communications commission to offer commercial mobile radio service in the State of Tennessee, and shall include, but not be limited to, broadband personal communications service, cellular radio telephone service, geographic area specialized mobile radio services in the 800 MHz and 900 MHz bands that offer real-time, two-way voice service that is interconnected with the public switched network, incumbent wide area SMR licensees, or any other cellular or wireless telecommunications service to any service user.

() "Commercial mobile radio service" means commercial mobile radio service under Sections 3(27) and 332(d) of the Federal Telecommunications Act of 1996, 47 U.S.C. §151, et seq., the Omnibus Budget Reconciliation Act of 1993, and 47 C.F.R. §20.9, and includes service provided by any wireless two-way communication device, including radio telephone communication used in cellular telephone service, personal communication service, or the functional and/or competitive equivalent of a radio-telephone communications line used in cellular telephone service, a personal communication service, or a network access line. This term shall also include, but not be limited to, any and all broadband personal communications service, cellular radio telephone service, geographic area specialized mobile radio services in all bands that offer real-time, two-way voice service that is interconnected with the public switched network, incumbent wide area SMR service, or any other cellular or wireless telecommunications service. Nothing in this definition shall be construed to require compliance by any amateur radio operator or such radio system.

() "Wireless enhanced 911 service" means that technology with location and number identification, as set forth in the federal communications commission order.

() "Federal communications commission order" means the Order of the Federal Communications Commission, FCC Docket 94-102, adopted on June 12, 1996, and released on July 26, 1996, and any subsequent amendment thereto, and includes other federal communications commission rules and orders relating to commercial mobile radio service providers, commercial mobile radio service, and wireless enhanced 911 service.

(b) Tennessee Code Annotated, Section 7-86-103, is further amended by deleting the language "as used in this part" and by substituting instead the language "as used in this chapter".

SECTION 4. Tennessee Code Annotated Title 7, Chapter 86, is amended by adding Section 1 and Sections 5 through 23 of this act as a new, appropriately designated part.

SECTION 5.

(a) There is created in the Department of Commerce and Insurance an emergency communications board (hereinafter referred to as "the board") for the purpose of assisting emergency communications district boards of directors in the area of management, operations, and accountability, and establishing emergency communications for all citizens of the State. Notwithstanding the provisions of any law to the contrary, the board shall, upon being constituted, exercise its powers and duties, in accordance with the provisions of this act, relative to all emergency communications districts established pursuant to this chapter or by any public or private act.

(b) The board shall be composed of nine (9) members as follows:

(1) One (1) member, appointed by the Governor, who has no connection to emergency communications districts and who does not fulfill any other requirements for appointment to the board;

(2) The Comptroller of the Treasury or the comptroller's designee. The appointment of the comptroller's designee to the board shall be for the term of office of the comptroller.

(3) One (1) representative of county government, who shall be appointed by the Governor from a list of three (3) nominees submitted by the Tennessee county services association;

(4) One (1) representative of city government, who shall be appointed by the Governor from a list of three (3) nominees submitted by the Tennessee municipal league; and

(5) Five (5) members, appointed by the Governor, who shall either be current directors of emergency communications districts or current members of emergency communications district boards of directors at the time of their appointment. The Governor shall appoint such members either from a list of three (3) nominees for each position submitted by the Tennessee emergency number association, or from a nominating resolution adopted by an emergency communications district. No more than two (2) members appointed pursuant to this item shall be residents of the same congressional district.

Nominations shall be made not less than thirty (30) days before the end of a term, and shall be filed with the Governor and the board. In appointing members, the Governor shall strive to ensure that the composition of the board represents the diversity of persons in Tennessee by considering race, gender, age, and geographical and political interests.

(c) Members shall be appointed to four (4) year terms, except as provided in this subsection. Two (2) of the members appointed by the Governor shall be appointed to serve an initial term of two (2) years, two (2) such members shall be appointed to serve an initial term of three (3) years, and the remaining four (4) such members shall be appointed for an initial term of four (4) years. The Governor may select the members whose initial terms are less than four (4)

years. Thereafter, such members shall be appointed and serve four (4) year terms. Members appointed by the Governor may be appointed to successive terms.

(d) The board shall elect a chair and such other officers as it may deem necessary and appropriate. Such officers shall be elected for two (2) year terms.

(e) The board shall meet at least quarterly, and at the call of the chair.

(f) A quorum shall consist of five (5) or more members; and all official action of the board shall require a quorum.

(g) All meetings of the board shall be subject to the provisions of Tennessee Code Annotated Title 8, Chapter 44, and Tennessee Code Annotated Title 10, Chapter 7.

SECTION 6. Tennessee Code Annotated, Section 7-86-108, is amended by redesignating subsection (a)(1) "(a)(1)(A)," and by adding the following new language:

(a)(1)(B)(i) Effective April 1, 1999, commercial mobile radio service subscribers and users shall be subject to the emergency telephone service charge, a flat statewide rate, not to exceed the business classification rate established in Section 7-86-108(a)(2)(A). Provided, however, the specific amount of such emergency telephone service charge, and any subsequent increase in such charge, shall be determined by the board, but must be ratified by a joint resolution of the General Assembly prior to implementation. It is the intent of the General Assembly that such rate be established at the lowest rate practicable consistent with the purposes of this act. The board shall report annually to the Senate and House Finance, Ways and Means Committees on the status of statewide implementation of wireless enhanced 911 service and compliance with the federal communications commission order, the status and level of the emergency telephone service charge for commercial mobile radio service subscribers and users, and the status, level, and solvency of the 911 Emergency Communications Fund. At such time that the requirements of the federal communications commission order and the provisions of this Act have been met, the board may reduce the amount of the emergency telephone service charge for commercial mobile radio service; provided, however, that such reduced amount must be adequate to cover all reasonable and necessary administrative and operating costs of the board, provide for the long-term solvency of the 911 Emergency Communications Fund which shall include compliance with the federal communications commission order, and those purposes stated in the Act.

The board shall notify each commercial mobile radio service provider of such rate, or any rate change, within seven (7) business days of the effective date of the ratification resolution. Each commercial mobile radio service provider shall implement the emergency telephone service charge not later than sixty (60) days after being notified of the rate, or rate change, by the board. The charge shall be assessed on all commercial mobile radio service subscribers and users whose principal wireless service address (or billing address if wireless service address is not known) is in Tennessee. No such service charge shall be levied on the trunks or service lines used to supply such service to commercial mobile radio service systems. Such proceeds shall be paid to the board, and shall be deposited in the 911 Emergency Communications Fund. No other state agency or local government entity may levy an additional surcharge relating to the provision of wireless enhanced 911 service.

(a)(1)(B)(ii) Each commercial mobile radio service provider shall remit the funds collected as the service charge to the board every two (2) months. Such funds shall be remitted to the board no later than thirty (30) days after the last business day of such two (2) month period. The commercial mobile radio service provider shall be entitled to retain as an administrative fee an amount equal to three percent (3%) of its collections of the service charge. The commercial mobile radio service provider shall be authorized to demand payment from any service user who fails to pay any proper service charge, and may take legal action, if necessary, to collect the same from such service user, or may, in lieu thereof and without any liability whatsoever to such service user for any losses or damages which result therefrom, terminate all service to such commercial mobile radio service provider; provided, that any service user so terminated shall have the right to resume service from the commercial mobile radio service provider as long as the service user is otherwise in compliance with the regulation of the commercial mobile radio service provider, upon full payment of all past due service charges and any other costs or expenses, including reasonable interest, or normal costs or charges of the commercial mobile radio service provider for the resumption of service, incurred by the commercial mobile radio service provider as the result of any nonpayment.

Each commercial mobile radio service provider shall annually provide to the board an accounting of the amounts billed and collected and of the disposition of such amounts. Such accounting shall be subject to audit or review by the Comptroller of the Treasury.

(a)(1)(B)(iii) Commercial mobile radio service providers shall collect the service charge on behalf of the board as part of their monthly billing process and as a separate line item within that billing process. The service charges collected under this subsection shall not be subject to taxes or charges levied on or by the commercial mobile radio service provider, nor shall such service charges be considered revenue of the commercial mobile radio service provider for any purposes.

(a)(1)(C) The board shall also use such funds created in item (a)(1)(B) for the purposes described in Section 7 of this act.

SECTION 7.

(a) The board's budget shall be subject to approval by the General Assembly.

(b) No member of the board is entitled to a salary for duties performed as a member of the board. Each member is entitled to reimbursement for travel and other necessary expenses incurred in the performance of official duties in accordance with the State comprehensive travel regulations as promulgated by the Commissioner of Finance and Administration and approved by the Attorney General.

(c) The board shall be funded through a charge, established pursuant to Section 6 of this Act, on all commercial mobile radio service.

(d) Any funds collected by the board shall be deposited in the State Treasury in a separate interest-bearing fund to be known as the 911 Emergency Communications Fund. Disbursements from this fund shall be limited solely to the operational and administrative expenses of the board and the purposes as

expressed in this act. At no time during its existence shall the 911 Emergency Communications Fund be used to fund the general expenses of the State of Tennessee.

(1) The board shall distribute twenty-five percent (25%) of the revenue generated by such a charge to each emergency communications district created either pursuant to Section 7-86-105 or this part, based on the proportion of the population of each district to that of the State, according to the 1990 or subsequent census. Such funds shall be used at the discretion of each district for the provision of 911 service in accordance with the provisions of this chapter. Such distribution shall be made thereafter as soon as possible in accordance with the provisions of this act.

(2) The board shall also use such funds to reimburse emergency communications districts and commercial radio service providers for expenditures to implement, maintain, operate, or enhance statewide wireless enhanced 911 service, in accordance with the provisions of Section 10(a)(9) of this Act.

(3) Any funds collected in excess of the annual fiscal requirements of the board, which shall include the payments to emergency communications districts established in item (1) of this section, shall not revert to the general fund. Any unspent funds at the end of a fiscal year shall be carried forward to the next fiscal year to be used as a beginning balance for the fiscal requirements for such fiscal year. The board may, at its discretion, and following policies, procedures, and criteria it has developed, use any such unspent funds to provide grants for operating and capital expenditures for basic or enhanced 911 service and wireless enhanced 911 service to assist emergency communications districts created either pursuant to Section 7-86-105 or this part. Such grants may be renewed by the board.

(4) AFTER providing for all necessary and reasonable operating and administrative expenses of the board, which shall include the payments and grants established in this Section; **AND**

AFTER implementing statewide wireless enhanced 911 service pursuant to standards established by the board, which shall include the present and future costs associated with required and necessary implementation, operation, maintenance, and enhancement of statewide wireless enhanced 911 service pursuant to the federal communications commission order, in accordance with item (2) above and Section 10(a)(9) of this Act; **AND**

AFTER establishing 911 service throughout Tennessee pursuant to standards established by the board; then the board may distribute any excess revenue to each emergency communications district created either pursuant to Section 7-86-105 or this part, for the purposes of promoting uniform 911 service, and those purposes stated in the law and this Act. Provided, however, the board must first determine that such distribution is possible and practicable, does not threaten the solvency of the 911 Emergency Communications Fund, and is consistent with Section 10 of this act.

It is the intent of the General Assembly that the board should distribute such excess revenue to emergency communications districts, as long as such distribution is consistent with the provisions of this Act.

SECTION 8.

(a) The Comptroller of the Treasury is directed to develop a uniform financial accounting system conforming to generally accepted accounting principles for use as required by this section. Effective July 1, 1999, each emergency communications district shall use the uniform accounting system developed by the Comptroller of the Treasury.

(b) The annual audit of all emergency communications districts shall disclose the failure of any such district to maintain such a financial accounting system as prescribed by the Comptroller of the Treasury. The Comptroller of the Treasury shall file with the board a copy of the audited financial statements of each emergency communications district, prepared pursuant to Section 7-86-113. The board shall have authority to act upon any adverse findings noted in such audits and/or financial statements and to order such action as may be necessary to remedy the adverse findings.

(c) The board of directors of each emergency communications district shall file with the board a copy of its annual budget, prepared in accordance with Section 7-86-120.

(d) Any emergency communications district that is a financially distressed emergency communications district shall be subject to the supervision and evaluation of the board. For the purposes of this chapter, a "financially distressed emergency communications district" is a district, which, as shown by the annual audits:

(1) Fails to produce revenues sufficient to provide for all expenses and maintenance of the district, including reserves thereof, for a period of three (3) consecutive years; or

(2) Has a deficit retained earnings balance; or

(3) Is in default on any indebtedness.

After reviewing the financial statements of any financially distressed emergency communications district, and after holding a public hearing within such district's service area, the board may prescribe a rate structure, up to the maximum established pursuant to Section 7-86-108(a)(2)(A), to be adopted by the district, as may be necessary to cause the district to liquidate in an orderly fashion any retained earnings deficits and/or to cure a default on any indebtedness of the district.

(e) If the board of an emergency communications district fails to adopt the prescribed rate structure, the board may, in addition to any and all other remedial actions available to it, petition the chancery court in a jurisdiction in which the emergency communications district is operating to require the adoption of the rate structure prescribed by the board or such other remedial actions, which, in the opinion of the court, may be required to cause the district to be operated in accordance with the provisions of state law.

SECTION 9.

(a) As a means to restore financial stability to financially distressed emergency communications districts and to ensure continued 911 service for the benefit of the public, the board may study the possible consolidation or merger of

two (2) or more adjacent emergency communications districts if at least one such emergency communications district is financially distressed. In the event that the board determines that such a consolidation or merger is in the best interest of the public, and after holding public hearings within the service areas of the affected emergency communications districts, the board may order the consolidation or merger. The board shall establish rules and policies concerning the composition and selection of the board of directors, and shall establish technical and operating standards and a rate structure for such multi-jurisdictional emergency communications district; provided, however, such action shall not threaten the financial integrity or stability of the affected emergency communications districts, or the level and quality of 911 service.

(b) Notwithstanding the provisions of subsection (a) to the contrary, a merger or consolidation affecting a non-financially distressed emergency communications district shall not become effective without the prior approval of the board of directors of such non-financially distressed emergency communications district.

SECTION 10.

(a) In order to effectuate the purposes of this part, the board has the power and authority to:

(1) Promulgate rules and regulations in accordance with the provisions of Tennessee Code Annotated, Title 4, Chapter 5, for the conduct of the affairs of the board;

(2) Adopt a seal for the board, prescribe the style thereof, and alter the same at pleasure;

(3) Subject to the provisions of Title 9, Chapter 6, appoint and fix the salaries and duties of such experts, agents, and employees as it deems necessary;

(4) Subject to the provisions of Title 12, make and enter into contracts and purchases;

(5) Adopt a proposed budget which shall be included in the proposed budget of the Department of Commerce and Insurance;

(6) Accept gifts, grants, or other moneys, and to receive appropriations which may be made by law;

(7) Provide advisory technical assistance to any emergency communications district upon request;

(8) Establish technical operating standards for emergency communications districts and periodically review and revise wireless enhanced 911 standards based on orders and rulings by the federal communications commission (FCC);

(9) Establish operating standards concerning acceptable uses of revenue for emergency communications districts and periodically review and revise these standards;

(10) Respond to requests from emergency communications districts or commercial mobile radio service providers, and subject to availability of funds, review and approve requests for reimbursements for expenditures to implement, operate, maintain, or enhance statewide wireless enhanced 911 service in conformance with any rules or orders of the federal communications commission, and other federal and state requirements that pertain to wireless enhanced 911 service;

(A) The board shall determine the method of reimbursement to commercial mobile radio service providers and emergency communications districts that will also ensure the long-term stability and solvency of the 911 emergency communications fund, in consultation with the Comptroller of the Treasury.

(B) The board shall also consult with the Comptroller of the Treasury concerning a minimum acceptable level of reserves to fund the future costs associated with the federal communications commission order.

(11) Raise the emergency telephone service charge rates of an individual emergency communications district up to the maximum established in Section 7-86-108(a)(2)(A); provided, however, that the district meets financial and operational criteria established by the board in consultation with the Comptroller of the Treasury;

(12) From time to time, submit to the Speakers of the General Assembly any recommended amendments to this chapter; and

(13) Exercise all the powers and take all the actions necessary, proper, or convenient for the accomplishment of the purposes enumerated herein.

(b) Any party adversely affected by a decision or order of the board may, within sixty (60) days of the board's action, initiate a contested case as provided by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5, which shall be heard by an administrative law judge sitting alone.

In the conduct of any hearing upon request or complaint, the administrative law judge may receive evidence in the form of affidavits in addition to minutes, transcripts, and other evidence of actions by an emergency communications district.

(c) Nothing contained within Section 10(a)(10) or this Act shall be construed to authorize the board to establish commercial mobile radio service rates other than a flat, statewide, uniform rate.

SECTION 11.

(a) The board shall develop and implement a plan for providing 911 service and wireless enhanced 911 service to all citizens of Tennessee. The plan shall provide for:

(1) A schedule for the implementation, installation, operation, maintenance, and enhancement of statewide wireless enhanced 911 service, and the funding thereof;

(2) A schedule for the implementation and coordination of a 911 system plan for the State of Tennessee, which shall include the funding thereof. With respect to an emergency communications district's financial standing and the level and quality of 911 service, the board shall act as the deciding agency whenever such issues arise between an emergency communications district and other governmental units involving the 911 system.

(3) A review and analysis of progress maintained by emergency communications districts in complying with technical, operating, and financial standards adopted by the board;

(4) A plan for each emergency communications district not meeting technical, financial, and operating standards as established in this part by the board to come into compliance with such standards; and

(5) An implementation schedule that will account for the progress achieved by each district in attaining and maintaining financial, technical, and operating standards.

(b) The board shall encourage and promote the planning, development, and implementation of 911 service for each newly created emergency communications district. Any emergency communications district newly created after the effective date of this Act shall have its 911 system plan approved by the board prior to implementation. The plan for each such district shall include specific local requirements. Such plan shall include, but not be limited to, law enforcement, firefighting, and emergency medical services and may include, but not be limited to, other emergency services such as poison control, animal control, suicide prevention, and emergency management services.

Such plan shall also include funding requirements necessary to implement and operate the 911 system; provided, however, that if anticipated revenues are not adequate to achieve and maintain technical and operating standards as established by the board in this part, the board shall undertake a study to determine other options for the provision of 911 service to that area.

(c) The board shall not require the commercial mobile radio service providers to select or deploy particular commercial solutions to meet any federal communications commission rulings or orders, or other requirements concerning wireless enhanced 911 service, provided the solutions chosen are compatible with the operations of emergency communications districts and the technical and operating standards for wireless enhanced 911 service adopted by the board.

SECTION 12. The board shall appoint a technical advisory committee, the number of members to be determined by the board. The technical advisory committee shall be composed of representatives of commercial mobile radio service providers and 911 service suppliers for the purpose of providing and receiving operational and technical information and advice on all aspects of wireless enhanced 911 service. The technical advisory committee members shall not be voting members of the board. No member of this committee is entitled to a salary for duties performed as a member of the committee. No member is entitled to reimbursement for travel and other necessary expenses incurred in the performance of official duties.

SECTION 13. The board shall appoint advisory committees for the purpose of providing and receiving information to the board, the number of members on such committees shall be determined by the board. Such committees may include, but not be limited to, local government officials, consumers, 911 service users, law enforcement personnel, firefighting personnel, and emergency medical services personnel. Members of such advisory committees shall not be voting members of the board. No member of any such advisory committee is entitled to a salary for duties performed as a committee member. No member is entitled to reimbursement for travel and other necessary expenses incurred in the performance of official duties.

SECTION 14. After the effective date of this act, no referendum to allow the creation of a new emergency communications district within the boundaries of an existing emergency communications district shall take place without prior approval by the board. In the event that the board determines that such a creation is in the best interest of the public, and after holding a public hearing within the service area of the existing emergency communications district, the board may order that a referendum be held; provided, however, that such action shall not threaten the financial integrity or stability or the level or quality of 911 service of the existing emergency communications district.

SECTION 15.

(a) In each county in which an emergency communications district has not been created by January 1, 2000, the board shall order an election to be held at the next regularly scheduled general election, pursuant to Section 2-3-204, to submit to the voters of the county, the question of creating a countywide emergency communications district. In the election to be held, the questions submitted to the qualified voters shall be "For the Emergency Communications District", "Against the Emergency Communications District". Upon approval by a majority of those voting, an emergency communications district is created in accordance with the provisions of Tennessee Code Annotated, Title 7, Chapter 86.

(b) In the event that such a referendum is not approved by a majority of those voting, the board shall be authorized to develop and implement a plan for the provision of wireless enhanced 911 service to such county.

SECTION 16. Any city or county governing body may, by resolution, request the board to review a decision of the board of directors of the emergency communications district serving such city or county affecting its financial standing and its level or quality of 911 service.

SECTION 17. Any county or city governing body may, by resolution, request the board to review the financial statements of an emergency communications district serving such county or city. If the board determines that such district is accumulating excess reserves or retained earnings, and if such emergency communications district is not able to justify such accumulation of revenues, the board may petition the chancery court in a jurisdiction in which such emergency communications district is operating, to require the adoption of a temporary rate structure recommended by the board, or other temporary rate structure sufficient to reduce such excess retained earnings. Provided, however, any such rate ordered by the chancery court must be adequate to cover all reasonable and necessary costs of operation, and shall not threaten the financial integrity of such emergency communications district or its quality and level of 911 service.

SECTION 18.

(a) No member of the board of directors of an emergency communications district shall have more than three (3) consecutive unexcused absences from meetings. If such a member has three (3) or more consecutive unexcused absences after the effective date of this act, such member may be removed by order of the chancery court in a jurisdiction in which such emergency communications district operates, upon petition by either the board, or a county or city governing body in the service area of such district.

(b) If a member of a board of directors of an emergency communications district, or a board of directors of an emergency communications district, refuses to carry out either the provisions of this chapter or an order of the board after the effective date of this act, such member or board may be removed by order of the chancery court in a jurisdiction in which such emergency communications district operates, upon petition by either the board, or a city or county governing body in the service area of such district.

(c) If a member of a board of directors of an emergency communications district or a board of directors of an emergency communications district knowingly or willfully neglects to perform the duties of such office, such member or board may be removed by order of the chancery court in the jurisdiction in which the emergency communications district operates, upon petition by either the board or a county or city governing body in the service area of such district.

Any such board member so removed under the provisions of this section shall be ineligible for reappointment for a period of not less than forty-eight (48) months. Such provisions shall be in addition to ouster provisions contained in Tennessee Code Annotated Title 8, Chapter 47, et seq.

SECTION 19. The board shall report annually to the Governor and the Speakers of the General Assembly on the activities of the board for the preceding year. The board shall receive and consider from any source whatsoever, whether private or governmental, suggestions for amendments to this chapter.

SECTION 20. A 911 call for a communication which is for some purpose other than to report an emergency or an event which the person placing the call reasonably believes to be an emergency is a Class C misdemeanor.

SECTION 21. Notwithstanding any other provision of law to the contrary, the board shall promulgate rules and regulations to safeguard proprietary information submitted to the board. Such rules and regulations shall be consistent with determinations, actions, customs, and practices of the Tennessee regulatory agency with respect to proprietary information. Any information determined to be proprietary in accordance with such rules and regulations shall be confidential and shall not be open to the public for inspection, notwithstanding the provisions of Tennessee Code Annotated, Title 10, Chapter 7.

SECTION 22. Nothing in this chapter shall be construed to constitute the regulation of the entry or of rates charged by commercial mobile radio service providers for any service or feature that they provide to their commercial mobile radio service customers, or to prohibit a commercial mobile radio service provider from charging a commercial mobile radio service subscriber for any service or feature provided to such customer.

SECTION 23. A commercial mobile radio service provider shall not have any greater responsibility or duty to its customers or other persons with respect to 911 calls

and the operation of a 911 system than does a non-commercial mobile radio service provider to its customers or other persons.

SECTION 24. Tennessee Code Annotated, Section 7-86-103, is amended by deleting subdivision (5) in its entirety.

SECTION 25. Tennessee Code Annotated, Section 7-86-107, is amended by deleting subdivision (a)(2) in its entirety.

SECTION 26. Tennessee Code Annotated, Section 7-86-107(a), is further amended by deleting the word, symbols and figure "four (4)" and substituting instead the word, symbols and figure "three (3)".

SECTION 27. Tennessee Code Annotated, Section 7-86-107, is amended by inserting the following new language, to be designated as subsection "(b)", and by re-designating the current subsections accordingly:

(b) Provided, however, each public safety emergency services provider retains the right to dispatch its own services, unless a voluntary agreement is made between such provider and the board of directors of the emergency communications district.

SECTION 28. Tennessee Code Annotated, Section 7-86-105(b) is amended by adding the following as a new subdivision:

(6) It is the public policy of this State to encourage the consolidation of emergency communications operations in order to provide the best possible technology and service to all areas of the State in the most economical and efficient manner possible. Pursuant to this policy, if two (2) or more counties, cities, or existing emergency communications districts, or any combination thereof, desire to consolidate their emergency communications operations, a joint emergency communications district may be established by the parties using an interlocal agreement as authorized by Tennessee Code Annotated Section 5-1-113, et seq., and Tennessee Code Annotated Section 12-9-101, et seq. Provided, however, notwithstanding the language of this subdivision or any other law to the contrary, no such consolidation of emergency communications operations shall result in the creation of a separate emergency communications district within the boundaries of an existing emergency communications district. Under such an agreement, the funding percentages for each party, and the size and appointment of the board of directors of such combined emergency communications district shall be determined by negotiation of the parties, notwithstanding the provisions of Section 7-86-105(b) to the contrary. Provided, however, that the board of directors of such combined district shall be composed of not less than seven (7) members to govern the affairs of the district. The terms, remuneration, and duties stated in subsection (c) through (i) of Section 7-86-105 shall apply to any board of directors of any combined emergency communications district.

SECTION 29. In implementing the provisions of this act, the State shall aggressively seek racial, gender, and age diversity. No person shall be excluded from participation in, or be denied the benefits of any program or activity receiving funding as a result of implementation of this act on grounds of race, gender, or age.

SECTION 30. Tennessee Code Annotated, Section 4-29-221(a) is amended by adding the following as a new item:

() The Emergency Communications Board, created by Section 5 of this Act;


SECTION 31. Tennessee Code Annotated, Section 7-86-201, is amended by adding the following language as a new subsection (d):


(d) Notwithstanding any other provision of law to the contrary, the law in effect prior to May 1, 1994 relative to public safety dispatchers shall apply to any person who is more than fifty (50) years of age, has more than five (5) years of continuous employment as a public safety dispatcher on the effective date of this act, and has a congenital defect or a disability which would qualify under the American with Disabilities Act of 1990, 42 U. S. C. 12101, et seq.

Tennessee Code Annotated, Section 7-86-201(b), is amended by deleting the word "In" at the beginning of the first sentence and by substituting instead the language "Except as provided in subsection (d), in".

SECTION 32. This act shall take effect immediately upon becoming law, the public welfare requiring it.

PASSED: April 29, 1998


JIMMY RAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this day of 1998

DON SUNDQUIST, GOVERNOR

Pursuant to Article III, Section 18, of the Constitution of the State of Tennessee, the Governor had House Bill No. 3190 in his possession longer than ten (10) days, so therefore the bill becomes law without the Governor's signature.